



U.S. SENATE COMMITTEE ON

# Finance

SENATOR CHUCK GRASSLEY, OF IOWA - CHAIRMAN

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For Immediate Release

Monday, Nov. 10, 2003

## Grassley Urges Tenet to Disclose Any Steps to Help Possible Surgery Victims

WASHINGTON – Sen. Chuck Grassley, chairman of the Committee on Finance, today asked the Tenet Healthcare Corporation to describe any actions it is taking to identify and notify any patient who might have received a medically unnecessary surgery or procedure.

The text of Grassley's letter to Tenet follows.

November 10, 2003

Edward A. Kangas  
Chairman  
Tenet Healthcare Corporation  
3820 State Street  
Santa Barbara, CA 93105

Dear Mr. Kangas:

On September 25, 2003, as Chairman of the Senate Finance Committee (Committee), I expressed my concern to you about the lack of significant change in the corporate culture and management team at Tenet Healthcare Corporation (Tenet). You responded, on October 10, 2003, saying, "[o]n behalf of our board of directors, let me assure you that we understand the concerns you have raised and that we are very serious about the steps we have taken, and are continuing to take, to change Tenet and turn it around." Recent events, however, appear to mark a significant step backwards for Tenet's efforts to restore its reputation and turn Tenet around.

By letter dated, October 31, 2003, Blue Cross of California (BCC/Blue Cross), notified Tenet Healthcare Corporation (Tenet) that it was referring some of its members to alternative participating hospitals for any medically necessary coronary bypass procedures. The notice states that, "[n]umerous improper, medically unnecessary Coronary Artery Bypass Graft ("CABG") procedures have been performed on BCC Members and improperly billed to BCC." On Saturday, November 1, 2003, *The Los Angeles Times* (*The Times*) reported that BCC had data suggesting that doctors at

Tenet's hospitals in Redding and Modesto performed unnecessary heart surgeries. Specifically, *The Times* quoted Dr. Woodrow Myers, chief medical officer for BCC saying that, "a review by independent cardiologists of 52 bypass operations at those hospitals had concluded that 85% of the surgeries at Redding had been unnecessary and that 59% at Tenet's Doctors Medical Center ["DMC"] in Modesto had been unwarranted." The numbers cited by Dr. Myers, if accurate, are truly shocking.

It is horrific to imagine what it would be like for a single patient, or the loved ones of that patient, to realize that the open heart surgery he or she endured was medically unnecessary. The notion that medically unnecessary heart surgeries or procedures are not, in fact, isolated, freak occurrences, but seem to represent a broader problem, potentially involving tens, hundreds, perhaps thousands of unwitting patients, is incomprehensible.

Yet, the simple fact that Tenet has already settled allegations involving medically unnecessary heart surgeries, makes me extremely wary, at the very least, about what else will unfold with respect to these latest developments. Tenet's response to Blue Cross's concern for its members, however, is mind-boggling – yet utterly in keeping with its corporate history. By letter dated, November 3, 2003, Tenet threatened to sue Blue Cross:

If BCC does not immediately and unconditionally withdraw its notice of termination, DMC will have no choice but . . . to take whatever legal action is necessary to protect its rights and pursue all of its remedies in that case. BCC should also be aware that Tenet and DMC are currently investigating any claims that they and others may have against BCC in connection with its communications with any third parties. In closing, please be aware that Tenet and DMC view the reckless allegations and improper threats of termination that were contained in your October 31 letter with the utmost seriousness.

Once again Tenet appears to be protecting its hide before expressing any concern for potential victims. When presented with the very real possibility that medically unnecessary surgeries may be occurring at another Tenet hospital, Tenet elected to respond, in the first place, by quibbling about numbers and percentages, and finally by threatening legal action. Tenet's letter to Blue Cross is confounding – mind you we are talking about people's lives here. Perhaps Tenet's officers and directors missed the significance of an unprecedented piece of news released by the Department of Justice on August 6, 2003. That press release was captioned as follows:

**UNITED STATES OBTAINS RECORD-SETTING \$54,000,000 RECOVERY AGAINST TENET HEALTHCARE CORPORATION BASED ON ALLEGED UNNECESSARY CARDIAC PROCEDURES AND SURGERIES PERFORMED AT REDDING MEDICAL CENTER.**

As Chairman of the Senate Finance Committee, I assure you Tenet's "issues" are far from settled in my mind. The fact that Tenet did not admit liability or any wrongdoing under the terms of its settlement does not lessen the significance of the fact that patients may have suffered from unnecessary heart surgeries. Nor does it relieve Tenet of its duty to account for what happened and how it happened.

The unprecedented action taken by Blue Cross on behalf of its members is not the only Tenet-related news about medically unnecessary cardiac procedures and surgeries, it is just the most recent. On October 31, 2003, Tenet itself announced “that it will voluntarily cooperate with a new request for documents from the U.S. Attorney’s office in Los Angeles, primarily regarding certain cardiac physician arrangements, coronary procedures and billing practices at three Los Angeles-area hospitals owned by Tenet subsidiaries . . . [including,] Centinela Hospital Medical Center, Daniel Freeman Memorial Hospital and USC University Hospital.” Numerous media reports indicate that the U.S. Attorney’s office in Los Angeles is investigating whether unnecessary heart surgeries were performed at these Tenet hospitals, which have increased cardiac services substantially in recent years. Among other issues, the U.S. Attorney’s office reportedly is seeking to determine whether Tenet improperly recruited physicians to perform cardiac services and whether Tenet improperly billed for surgeries and procedures that may have been medically unnecessary.

Clearly, something needs to be done about, as you put it, “the companies current troubles.” Tenet understandably wants to put these “troubles” in its past and “chart a new, sustainable course.” The problem with “record-setting” corporate-fraud settlements is that they do not help the untold numbers of victims who may have suffered as a direct result of the fraud perpetrated. Many corporations view such settlements in this day and age, even when they amount to hundreds of millions or billions of dollars, as the cost of doing business with the federal government. Any victims are left behind to fend for themselves, while the settling company returns to business as usual. Neither, Mr. Fetter’s letter, dated September 5, 2003, nor your letter, dated October 10, 2003, directly addresses any victims who may have died or suffered complications due to unnecessary angioplasties, coronary bypasses, and heart catheterizations at Tenet hospitals. For your information, my greatest concern is for the untold number of victims who may be involved in this investigation, as well as any future patients who may be at risk.

The notice Blue Cross sent to Tenet on October 31, 2003, demanded that Tenet “shall take all necessary steps to ensure that BCC members who received inappropriate CABGs ... are appropriately notified.” That raises two important questions: (1) what is Tenet doing to notify any Tenet patient who may have undergone a medically unnecessary surgery or procedure?; and (2) what is Tenet doing to see to it that “all due care” is taken to ensure that surgeries and procedures that have been performed at some Tenet hospitals were indeed medically necessary? By this letter, I request that Tenet inform the Committee about what action, if any, it has taken or intends to take to identify any patient(s) it believes may have undergone an unnecessary heart procedure or surgery. Second, what action has Tenet taken to inform any victim(s) of unnecessary heart procedure or surgery.

The multiplying questions about medically unnecessary surgeries at Tenet hospitals makes me concerned that Tenet’s ship may be more misguided than originally feared. Tenet’s reaction to these new questions raises additional questions about who is minding Tenet’s helm. It appears that the number of Tenet officers and directors who have clung on board does not bode well for Tenet’s ability to navigate the troubled waters it has charted for itself.

Please reply to this letter no later than the close of business on November 24, 2003.

Sincerely,

Charles E. Grassley  
Chairman

cc: Mr. Trevor Fetter  
Chief Executive Officer and President

Mark Willett, Government Relations  
VIA FACSIMILE: (805) 682-5462